

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

ANTONIO D. TOWNSEND,)
)
 Plaintiff,)
)
 v.) No. 2:22-cv-00337-JPH-MG
)
 KEYES, *et al.*,)
)
 Defendants.)

Order Granting Motion to Amend

Plaintiff Antonio Townsend is a prisoner currently incarcerated at Wabash Valley Correctional Facility ("WVCF"). He filed this civil action alleging that he has been subjected to unconstitutional conditions of confinement. His original complaint was screened as required by 28 U.S.C. § 1915A and his claims were permitted to proceed under the Eighth Amendment. Dkt. 8. Mr. Townsend has filed a motion for leave to file an amended complaint in which he asserts the same claims against the same defendants but clarifies some facts and alleges that he requested that the video of the events at issue be preserved and it was not.

Mr. Townsend's motion to amend, dkt. [26], is **granted**. The **clerk shall re-docket** the proposed amended complaint and its exhibits, dkt. [26-1, 26-2, 26-3]. Mr. Townsend's claims shall continue to proceed as identified in the screening order of October 6, 2022 and clarified in his amended complaint.¹

¹ The Court notes that, while Mr. Townsend alleges that he requested video to support his allegations and prison staff denied this request, he does not appear to intend to state a claim based on these facts. He does not name the individuals responsible for

The defendants shall have **twenty-one days** to answer the amended complaint.

SO ORDERED.

Date: 5/3/2023

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

ANTONIO D. TOWNSEND

228661

WABASH VALLEY - CF

WABASH VALLEY CORRECTIONAL FACILITY - Inmate Mail/Parcels

Electronic Service Participant – Court Only

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preserving the video as defendants. And, while the failure to preserve the videos may be relevant to the litigation of Mr. Townsend's claim, the Court cannot discern a free-standing civil rights claim based on these allegations. *See Zavala v. Aselson*, No. 17-cv-982-DEB-JPS, 2017 WL 3700900, at *3 (E.D. Wis. Aug. 25, 2017) ("Plaintiff does not have a constitutional right to the preservation of evidence. That said, at the appropriate time . . . Plaintiff may be able to seek the imposition of sanctions for spoliation of evidence.") (citing cases).